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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,607	02/23/2004	Elise Tordella	1810K (US) / TYCV 1810	8323
54964 7590 04/14/2008 TYCO HEALTHCARE - EDWARD S. JARMOLOWICZ 15 HAMPSHIRE STREET MANSFIELD, MA 02048				
EXAMINER				
DEMILLE, DANTON D				
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3771				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,607

Applicant(s)

TORDELLA ET AL.

Examiner

Danton DeMille

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-20, 22, 24-26, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-20, 22, 24-26, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 1, 5-7, 11, 13, 14, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguri et al. in view of Islava and Poole et al.

Oguri teaches, for example, a sleeve 1 configured for disposal over the entire body including a limb. The sleeve including a first portion 11 defining a first expandable chamber 114 and a second portion 12 defining a second expandable chamber 124 and a third expandable chamber 122. The second portion 12 including a connector 152 in fluid communication with a pressurized fluid source 13 and the first 114, second 124 and third expandable chamber 122. The first portion 11 is removable from the second portion. The separation is achieved through connectors 151. Oguri appears silent regarding if the sleeve portions 11, 12 themselves are also detachable.

Islava teaches "[d]etaching one portion 50 from another portion 60 also enables each portion to form a structure independently from the other" column 4, lines 53-55. Islava teaches one conventional means of separating two inflatable sleeves one from the other. While Islava may be an inflatable splint the same detachable independent function would still be applicable to compression sleeves. Oguri already requires it. Poole further exemplifies the convention of using detachable attachment means for being able to separate different portions of inflatable sleeves together using zippers. It would have been obvious to one of ordinary skill in the art to modify Oguri to also detachably attach the different portions of the sleeve using perforations as taught by Islava in order to be able to separate different portions of the sleeve as desired or required. Providing the additional detachable attachment between the different sleeve portions

also provide more structural support between sections. Otherwise holding the two different sections of sleeve together using tubular connectors would put a lot of stress on the tubular connections. Providing the attachment of the sleeves strengthens the unity of the device until it is desired to separate the sections.

Regarding claim 5, the first expandable chamber 114 defines at least one sub-chamber 115.

Regarding claim 6, the second expandable chamber 124 defines at least one sub-chamber 125.

Regarding claim 7, Oguri already teaches the convention of including sub-chambers within larger chambers to apply pressure upon a specific area. There appears to be no unobviousness to providing additional sub-chambers on any of the other larger chambers in order to enhance pressure upon any other specific area as desired. It would have been obvious to one of ordinary skill in the art to further modify Oguri to include a third sub-chamber on top of another larger chamber such as third expandable chamber 122 in order to enhance pressure upon the knee.

Regarding claim 12, the tubular pathway of the first expandable chamber 11 is removable from the 151L portion of the connector.

Regarding claim 13, the Oguri device is capable of performing the claimed functional intended use limitations and would have been an obvious provision of Oguri.

Claims 3, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 and further in view of Rotta.

Oguri already teaches the sleeve can be separated into an upper portion 11 and a lower portion 12. There appears to be no unobviousness to separating the sleeve up even further into smaller sections as desired. Rotta also teaches the inflatable sleeve can be separated into a plurality of sections. It would have been obvious to one of ordinary skill in the art to modify Oguri to separate the sleeve into smaller sections as taught by Rotta so as to have a separate torso section from the legs section should it be determined that the particular patient does not or cannot have the massage therapy performed on the torso portion of the body. The known method of separating sleeves into smaller sections would appear to be obvious when it does no more than yield the same predictable results.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 and further in view of Dye '312.

Dye also teaches an inflatable sleeve in which there is an opening 26a-b, 28a-b that would function as a ventilation opening and is located between a second and third expandable chamber. It would have been obvious to one of ordinary skill in the art to further modify Oguri to include an opening in the sleeve as taught by Dye for providing flexibility to the sleeve or for ventilation.

Claims 1, 5-7, 11, 13-20, 22, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dye '312 in view of Islava, Oguri et al. and Arkans '244.

Dye teaches a sleeve 10 configured to wrap about a leg and defining a plurality of ventilation openings 44. The sleeve includes a thigh portion including sub-chambers 38e and f, a calf portion including sub-chambers 38c and d and an ankle portion defining sub chambers 38a and b. Dye may not teach the thigh portion being removably connected to the calf portion

however, there appears to be no unobviousness to separate different parts from one another in order to accommodate different patients needs. Different patients may not need to include the thigh portion of the inflatable sleeve. Other patient may have trauma or had surgery above the knee and therefore including the thigh portion could possibly cause injury. Being able to remove the thigh portion would appear to be well within the realm of the artisan of ordinary skill.

Islava teaches perforations such that "[d]etaching one portion 50 from another portion 60 also enables each portion to form a structure independently from the other" column 4, lines 53-55. Islava teaches one conventional means of separating two inflatable sleeves one from the other. While Islava may be an inflatable splint the same detachable independent function would still be applicable to compression sleeves such as Dye or Oguri. Oguri teaches a sleeve that allows for the different sections of sleeve to be separately assembled and disassembled so that only the upper body or the lower body can be treated. It would have been obvious to one of ordinary skill in the art to modify Dye to include perforations as taught by Islava to disassemble the different sections of the sleeve so that each section can be independently used as taught by Islava as well as Oguri.

Arkans teaches a valve connector so that upon disconnection the upstream connector closes off the tubular pathway so that the upstream sleeve can maintain pressure. It would have been obvious to one of ordinary skill in the art to further modify Dye to include a valve connector as taught by Arkans to complete the details of separating the different portions of the sleeve for closing off the tubular pathway to maintain proper pressure within the remaining portion.

Regarding claim 16, Dye teaches a slit 26a and b that would inherently provide ventilation.

Regarding claim 17, the compression apparatus would be able to perform the claimed operational method and such intended use appears to be within conventional parameters and an obvious provision.

The method of providing the sleeve, disposing the sleeve about the limb, delivering pressurized fluid and deflating the chambers would be well within the realm of the artisan of ordinary skill and inherent in the operation of the prior art device. Since the different sections can be separated at any time dependent on practical considerations of intended use, there appears to be no unobviousness to remove one section from another in order to change the operation of the device for the next patient or next session. There appears to be no unobviousness to when the sections are separated in order to accomplish the desired therapy. Oguri also teaches being able to remove one section of the sleeve to be able to use the remaining sleeve alone as desired.

Claims 1, 11, 12, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dye '312 in view of Islava, Oguri et al. and Mitchell.

It would have been obvious to one of ordinary skill in the art to modify Dye to include perforations as taught by Islava to disassemble the different sections of the sleeve so that each section can be independently used as taught by Islava as well as Oguri, as noted above. When separating the first portion from the second portion of the sleeve one would have to disconnect the hose to the first portion and still be able to operating the second portion by itself. Mitchell teaches a connector, figure 1, in which the downstream tubular pathways 14, 18 have quick disconnect ports 60 for individually disconnecting the downstream tubular pathways as desired

or required. It would have been obvious to one of ordinary skill in the art to further modify Dye to include a coupling means as taught by Mitchell so that one can disconnect the tubular pathway to the first portion of the sleeve and still be able to operate the second portion by itself.

Response to Arguments

Applicant's arguments with respect to claims 1, 3-20, 22, 24-26, 28 and 29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Danton DeMille whose telephone number is (571) 272-4974. The examiner can normally be reached on M-F from 8:30 to 6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu, can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14 April 2008

/Danton DeMille/
Danton DeMille
Primary Examiner
Art Unit 3771